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NOTES OF CASES.

Carrier's Right to Limit Liability for Loss of Baggage.—Plaintiff, an interstate passenger of the defendant railroad, claimed damages in excess of \$2,000 for loss of her baggage through defendant's negligence. Defendant alleged that its liability was limited to \$100; that it complied with all the provisions of the interstate commerce act, and filed and published schedules of rates, fares, and charges, a part of the schedules relating to the transportation of baggage and liability therefor. Plaintiff did not know of this regulation nor of any rule limiting the value of baggage to be carried without extra charge. The Supreme Judicial Court of Massachusetts in *Hooker v. Boston & Maine Railroad*, 95 Northeastern Reporter, 945, holds that, as there is no provision in the interstate commerce law as to passenger's baggage, the filing and posting by a carrier of a limitation of its liability for loss of baggage not exceeding a certain value unless a greater value is declared and excess charges paid thereon at the time of checking, does not make such limitation an essential part of the rate of transportation of passengers, so as to be binding on a passenger having no knowledge thereof.

Retired Officer Compelled to Refund.—A retired officer is still in the service of the United States since by statute he is declared to be a part of the army, may wear its uniform, his name is borne upon its register, he may be assigned by his superior officers to specified duties by detail as other officers are, he is subject to the rules and articles of war, and may be tried, not by a jury, as other citizens are, but by a military court-martial, for any breach of those rules, and may finally be dismissed on such trial from the service in disgrace. The United States Circuit Court in *United States v. Gilmore*, 189 Federal Reporter, 761, holds that the two acts of Congress providing that officers mustered out of the service shall be entitled to three months' pay and travel, apply to officers mustered out of the volunteer service, and not to a retired army officer who resumes his two-thirds pay from the date of his discharge, and, such officer having received such travel pay and allowances, the United States is entitled to recover the same. Judge Hand says: "A great deal has been said of the hardship of such a construction, and indeed the hardship is great in compelling a man to refund money which he has long since and in good faith spent and forgotten. As Justice Clifford says in *United States v. Merrill*, 76 U. S. 614, these allowances are not gratuities, but are intended to tide the period after discharge when a civilian has presumably no means of support. Such is not the case with a retired army officer, who resumes his two-thirds pay from the day of his discharge. There is no period when he is

left without resources. It is true that in respect of the commutation of travel and subsistence, the statute results in most shabby treatment, because the government requires the discharged officer to find his way home at his own charges, which is hardly a generous position for a sovereign to whom he has just volunteered his life."

Judge Instructs How to Evade Sentence.—Leo Hinson, alias Mrs. Ernest Rochelle, was convicted for retailing spirituous liquors and sentenced to eight months imprisonment. The trial judge instructed her, upon passing sentence, that if she would leave the county and not return she would not be compelled to serve the sentence of imprisonment, and directed the clerk not to issue capias to carry into effect the judgment pronounced until five days after the adjournment of the court. She left the county and took up her abode in the adjoining county, where she remained until after the expiration of the eight months, when she returned to the county in which she was convicted. Thereupon she was taken in arrest upon the capias and was imprisoned in the county jail. Being in jail, the trial judge refused to discharge her, and she thereupon petitioned for habeas corpus. The Supreme Court of North Carolina, in the case of *Ex parte Hinson*, 72 Southeastern Reporter, 310, holds that this procedure of the trial judge did not make the sentence one of banishment, or prevent her from being imprisoned upon the capias upon her return to the county, and affirms a judgment denying the writ.

Discharged Convict Denied Citizenship.—One Ross, a petitioner for admission as a citizen of the United States and a discharged convict, was denied admission by the United States Circuit Court, although his behavior had been good during five years preceding the petition. It appeared that in 1896 he pleaded guilty to the charge of murder in the second degree, for which crime he served 9 years in the penitentiary. Judge Witner, in *Re Ross*, 188 Federal Reporter, 685, holds that, if his personal welfare alone was entitled to consideration, the conferring of the rights of citizenship might be considered as proper aid and encouragement, but that the matter could not be determined along such narrow lines, since the evil resulting from such practice would immeasurably exceed the personal benefits conferred from such attempts at dispensing charity. The honorable judge says: "Citizenship is not to be debauched by conferring on the criminal class its sacred privileges. The crime of which petitioner admitted his guilt is so abhorrent to human nature and society that this court will not bestow on him the rights of an American citizen, notwithstanding the great liberality of our federal government."